



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WESTERN REGIONAL OFFICE
2600 North Central Avenue
Phoenix, Arizona 85004



IN REPLY REFER TO:
Real Estate Services
MS-420

MAR 31 2011

PTP, Inc.
c/o: Mr. Howard Yarborough
Yarborough & Company
101 W. Arroyo Street
Reno, Nevada 89506

Pineview Estates HOA
c/o: Mr. Robert Lapp
277 Walker
Gardnerville, Nevada 89410

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2011 APR -7 PM 2:00
ENVIRONMENTAL MANAGEMENT

Dear Messrs. Yarborough and Lapp:

This is in response to a February 15, 2011, letter from the United States Environmental Protection Agency (EPA), following up on its Notice of Violation issued on January 5, 2011. The Notice of Violation stated that Mr. Leon Mark Kizer (Indian landowner, Carson City Allotment CC-234), PTP, Inc., and Pineview Estates Homeowner Association (HOA or Association) are in violation of Federal Underground Injection Control regulations because of unauthorized underground injection activities at Pineview Estate Subdivision. You are to respond to certain recommendations made by EPA by April 7, 2011.

As you know, a lease between Leon Mark Kizer, Lessor, and PTP, Inc., Lessee, was entered into and approved by the Superintendent of our Western Nevada Agency (WNA) on October 8, 1997, in accordance with 25 U.S.C. § 415, and its governing regulations found at 25 C.F.R. Part 162. The leased premises are located in Douglas County, Nevada, and contain 62.76 acres, more or less, except for a three-acre homesite, a two acre commercial site, all subject to prior valid existing rights-of-way for passage or utilities. The term of the lease is for fifty (50) years, and the amended lease also provides the lessee with an option to renew for an additional forty-nine (49) years, with the approval of the Superintendent. The lease has been amended on two occasions. See Superintendent's letter dated August 25, 2010 (enclosed), and attachment, which further define the background of the lease.

Covenants, Conditions and Restrictions (CC&Rs) for Pine View Estates, signed by PTP as Declarant on October 8, 1997, were recorded in Douglas County, but not approved by the Bureau of Indian Affairs. The First Amendment to the CC&Rs was signed by PTP on July 12, 2000,

approved by WNA on June 14, 2000, and recorded in Douglas County. Art. 2.1 of the CC&Rs states: "All of the Common Area is or will be leased or owned by the Association." Art. 3.2.1 goes on to state: "Maintenance of the Common Area and any and all Improvements thereon, including the Community Water System, shall be the obligation of the Declarant until December 31, 1999 or the sale or lease of 32 Lots, whichever shall occur first The Association shall [thereafter] maintain and manage the common Area and all Improvements thereon [and] maintain all utility, water and sewer lines" Note, however, that PTP's leasehold interest has never been assigned to the HOA. Note also that in an August 25, 2010, letter, WNA raised a number of questions concerning certain provisions in the lease and suggested the possibility of a transfer of the land from Mr. Kizer to the HOA, but by letter dated December 3, 2010, the HOA's attorney indicated that "until the status and cost of operating, maintaining and improving the utilities and improvements is ascertained, the homeowners cannot take responsibility for them."

Art. 10 of the lease states at 10.2 that "Lessee's improvements for all lots shall be prepared by an engineer licensed to practice in the State of Nevada, and shall include: e. Sanitary sewer service, to meet all Federal and State standards. . . ." Further, in accordance with Art. 27, a failure to comply with these standards will subject the lease to possible cancellation. Art. 18 allowed the master lessee to sublease, subject to the CC&Rs, on the form and in accordance with all the terms and provisions of the written sublease attached as Exhibit "B" to the lease. Art. 6 of the form sublease, requires that each individual sublessee is to keep the premises in good repair, including "sewers, drains, water system and other improvements" It thus appears that PTP, the HOA, and each of the homeowners all bear some responsibility for the maintenance of the water and sewer systems, and pending the completion of the necessary curative actions all bear some risk under both the terms of the lease documents and applicable federal law.

At this time, we are not issuing a formal notice of default, but we are advising all parties to fully comply with the Notice of Violation in order to address these matters fully and immediately. In recognition of the high level of nitrogen and fecal coliform bacteria in the groundwater, the BIA plans to assist by retaining an environmental consulting firm to perform assessment activities associated with the operation and design of the wastewater and drinking water systems. These assessment activities include: 1) Reviewing and evaluating the design and operation of the wastewater and drinking water systems; 2) understanding the source of contamination, the extent of contamination in the soils and groundwater, and the risk to the drink water supply; 3) determining the roof causes of the releases of contaminants to the groundwater; and 4) establishing remedy alternatives, both operations and infrastructure necessary to permanently resolve this matter. We anticipate that the selected consultant will review relevant correspondence, facility designs, and surveys; conduct a site visit; and present the findings to all of the stakeholders. We hereby request that any and all correspondence, design, and survey information be provided to us by May 16, 2011.

If you have any questions concerning the planning and environmental assessment, or the associated information needed, please contact Mr. John F. Krause, Regional Environmental Scientist, at 602-379-3723. Please contact Mr. Stan Webb, Realty Officer, or Gloria Koehne, Realty Specialist, at 602-379-6781 as to any other issues regarding this matter.

Sincerely,

(Sgd) Bryan L. Bowker

Regional Director

Enclosure

cc: Mark Kizer
Superintendent, Western Nevada Agency
John Krause, WRO